

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KEITH A. SOMERS,

Plaintiff,

No. CIV S-05-0741 MCE EFB P

vs.

BPT COMMISSIONER M. PEREZ,
et al.,

Defendants.

ORDER

Plaintiff is a prisoner without counsel suing for alleged civil rights violations. *See* 42 U.S.C. § 1983. By order filed November 1, 2007, the court directed plaintiff to file either an opposition to defendants' motion for summary judgment or a statement of no opposition within 20 days. The 20 days have elapsed and plaintiff has not complied with that order.

Instead, on December 4, 2007, plaintiff requested that the court appoint counsel. As the court explained in its December 11, 2007, order, district courts lack authority to require counsel to represent indigent prisoners in section 1983 cases. *Mallard v. United States Dist. Court*, 490 U.S. 296, 298 (1989). In exceptional circumstances, the court may request counsel voluntarily to represent such a plaintiff. 28 U.S.C. § 1915(e)(1); *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991); *Wood v. Housewright*, 900 F.2d 1332, 1335-36 (9th Cir. 1990). The court found in the December 11, 2007, order and finds again here that there are no exceptional circumstances in

1 this case.

2 Accordingly, IT IS HEREBY ORDERED that plaintiff has 30 days from the date this
3 order is served within which to file an opposition or statement of no opposition to defendants'
4 motion for summary judgment, or to show good cause for his failure to do so. Failure to comply
5 with this order will result in a recommendation that this action be dismissed.

6 So Ordered.

7 DATED: December 18, 2007.

8 
9 EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE